

APPENDIX 7

**Felicia Marcus, Regional Administrator, U.S. EPA Region IX,
letter to the Honorable Jane Dee Hull, Governor of Arizona,
January 19, 2001**

**Wayne Nastri, Regional Administrator, U.S. EPA Region IX,
letter to Stephen A. Owens, Director, Arizona Department of
Environmental Quality, July 2, 2003**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

**75 Hawthorne Street
San Francisco, CA 94105-3901**

**OFFICE OF THE
REGIONAL ADMINISTRATOR**

January 19, 2001.

Honorable Jane Dee Hull
Governor of Arizona
1700 West Washington
Phoenix, Arizona 85007

Dear Governor Hull:

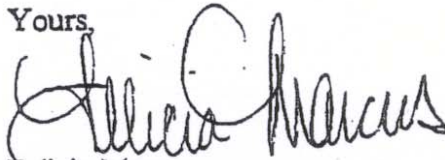
As part of our responsibility to inform the public about the quality of air they breathe, I am writing to inform you that EPA has released staff recommendations setting out potential nonattainment area boundaries for the 8-hour ozone (smog) national ambient air quality standard (NAAQS). In preparing these initial recommendations, EPA gave significant deference to boundaries recommended by States. Arizona, however, has not provided a boundary recommendation to EPA. EPA's current recommendation for Arizona therefore defaults to the Phoenix Metropolitan Statistical Area (MSA), pursuant to our March 28, 2000 guidance entitled "Boundary Guidance on Air Quality Designations for the 8-Hour Ozone NAAQS." (See Attachment 1). The Phoenix MSA consists of all of Maricopa and Pinal Counties.

We continue to urge you to submit a recommended boundary to EPA with documentation supporting that recommendation. Section 107(d)(1) of the Clean Air Act requires all areas to be designated nonattainment if they do not meet the standard or contribute to ambient air quality in a nearby area that does not meet the standard. Because of the pervasive nature of ground level ozone and transport of ozone and its precursors, it is EPA's policy to designate as nonattainment any Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area (C/MSA) that has a violating monitor. We do recognize, however, that there may be unique circumstances (e.g., traffic and commuting patterns, geography/topography, jurisdictional boundaries, etc.) that would support making the boundaries either larger or smaller than the C/MSA.

Based on demographic and growth information we have for the Phoenix area, retaining the current 1-hour ozone nonattainment boundary as the 8-hour ozone boundary would not protect public health and is therefore not an option for Arizona. If the State provides to EPA information addressing the boundary criteria (see enclosed guidance, p. 4), it may be possible to justify an 8-hour nonattainment boundary smaller than the MSA. We also respectfully request boundary criteria information on Yavapai and Gila counties because we are concerned about violating monitors at or near the borders of those counties. The national direction has been to include adjacent areas with large emissions sources or other characteristics such as growth.

EPA is ultimately responsible for promulgating nonattainment area boundaries based on sound air quality data and for providing comprehensive protection against population exposure to unhealthful air. We look forward to working with the Arizona Department of Environmental Quality, the Maricopa Association of Governments, the Maricopa County Environmental Services Department, and other Arizona agencies to arrive at an appropriate boundary based on the best available data. If you have any questions, please do not hesitate to call me at (415) 744-1001 or Colleen McKaughan, Associate Director of the Air Division, at (520) 498-0118.

Yours,

A handwritten signature in black ink, appearing to read "Felicia Marcus". The signature is fluid and cursive, with the first name "Felicia" and last name "Marcus" clearly distinguishable.

Felicia Marcus

Regional Administrator

Enclosure

cc: Jacqueline E. Schafer, ADEQ
Nancy Wrona, ADEQ
James Bourey, MAG
Al Brown, Maricopa County

January 19, 2001

MEMORANDUM

SUBJECT: Compilation of States' Recommendations and Initial Regional Office Responses on Areas That Are Not Attaining the 8-Hour Ground-Level Ozone NAAQS

FROM: Lydia Wegman, Director /s/ by Jack Edwardson for Lydia Wegman
Air Quality Strategies and Standards Division (MD-15)

TO: Air Division Directors, Regions I-X

The purpose of this memorandum is to forward the attached compilation of information sent to us from the Regions and States in response to the statutory requirement to submit recommended designations and EPA guidance regarding how to determine boundaries for nonattainment areas for the 8-hour ground level ozone national ambient air quality standards (NAAQS or standards).

The tables show a summary of recommendations sent to us by States identifying the boundaries of areas that are not attaining and/or are contributing to areas that are not attaining the standards. The second and third columns show a summary of the Regional offices' initial responses to the scope of the boundaries recommended by the States and their explanation of their responses. Where the State did not provide a recommendation, the tables contain only the Region's initial view, based on our guidance, on the boundaries for areas that are not attaining or are contributing to areas that are not attaining the 8-hour standards.

There appear to be differences among the Regions and States in their application of the guidance. The tables indicate next to the name of each state whether further discussion is needed with the Regional office to assure that we apply the guidance nationally in a fair and equitable manner. We will work with you in the future to resolve these differences prior to responding formally to the States.

The States' recommendations and Regional office responses are based on air quality data collected during 1997-1999. When designations are promulgated, EPA will use the most recent 3 years of quality assured data.

This memorandum does not include tribal recommendations on boundaries for tribal land located in or near areas that are not attaining or contributing to areas that are not attaining the standard. In response to a request from several tribes, the EPA and tribal representatives are initiating a process to discuss the unique problems for tribes associated with implementing air quality designations and standards for tribal land. The EPA will address designations of tribal land after these discussions.

I expect each Director to review the entire table, looking again at your responses to your states' recommendations and at the other Regional offices' responses with respect to the guidance. I look forward to working with you as we proceed with the review of State recommendations prior to taking regulatory action.

Questions on this memorandum may be directed to Sharon Reinders at 919/541-5284.

Attachment

cc: Deputy Regional Administrators
Margo Oge

EPA Regional Office's Initial Response to State Submittals - January 19, 2001

| Arizona | | |
|----------------------|---------------------|---|
| State Recommendation | RO Initial Response | Comments |
| None | Maricopa Co* | Presumptive MSA. Excludes Indian lands. See Note 1. |
| | Pinal Co* | Presumptive MSA. Excludes Indian lands. See Note 1. |

Notes

Region 9

Arizona

Note 1 - Maricopa and Pinal Cos, AZ - Additional data are needed from the State to determine whether the boundaries should remain as the default MSA or made either larger or smaller in accordance with EPA guidance. Designations on Indian lands is being addressed through a separate process.

*County or part county not recommended by State in the C/MSA and any adjacent county added by EPA.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

July 2, 2003

**OFFICE OF THE
REGIONAL ADMINISTRATOR**

Steve
Stephen A. Owens, Director
Arizona Department of Environmental Quality
1110 West Washington Street
Phoenix, Arizona 85007

Dear Director Owens:

I am writing to give you an update on the Environmental Protection Agency's (EPA) schedule for officially designating areas as "attainment/unclassifiable" or "nonattainment" for two important air pollutants, ground-level ozone and fine particles. I am following up on letters sent to your Governor in March 2003 for ozone and June 2003 for fine particles (PM_{2.5}). I am also writing to enlist your support in working with the communities in your State to take the necessary steps to reduce air pollution and help protect public health.

Breathing ozone (the primary constituent of smog) and fine particles can cause serious respiratory and cardiovascular effects. Many health studies have correlated increased exposure to fine particles with increases in premature death. In 1997, EPA revised its national ambient air quality standards for these two pollutants. After prevailing in a lengthy court battle, we are now working with States to take the steps necessary to protect the public from these pollutants.

As you know, some important dates are fast approaching. For ground-level ozone, our schedule requires States to make their attainment/nonattainment designation recommendations to EPA by July 15, 2003. The EPA must make its final official designations decisions by April 15, 2004. For the fine particle standards, States are to make these recommendations by February 2004, and the Agency will make its final decisions by December 15, 2004. Because recent air quality data show that a number of metropolitan areas are violating both the ozone and fine particle standards, we encourage you to consider each area's probable PM_{2.5} status when developing your recommendations for ozone. At this time, it appears that the Phoenix Metropolitan Statistical Area (MSA) is the only area within the State of Arizona that violates the 8-hour ozone standard, however, it does not appear to violate the PM_{2.5} standard. Based on the data we have seen to date, the State of Arizona appears to have no PM_{2.5} nonattainment areas.

We want to highlight several issues for you as you review the 8-hour ozone information in preparation for briefing Governor Napolitano. Because of the pervasive nature of ground-level ozone and the transport of ozone and its precursors, it is EPA's policy to presume that the 8-hour ozone nonattainment area will be the MSA, which in Arizona's case is all of Maricopa and Pinal Counties. EPA also expects the State to include with the MSA any violating counties, any

contributing counties, and any counties with large sources such as power plants that are adjacent to the MSA. If the State wants to recommend an area different than the nonattainment area just described, the State must submit a boundary recommendation that addresses the eleven factors in the March 28, 2000 John Seitz memorandum. These factors allow a state to address unique circumstances (e.g., geography/topography, traffic and commuting patterns, jurisdictional boundaries, etc.) that would support making the boundaries larger or smaller than the MSA. If the State chooses to submit a boundary recommendation addressing the eleven factors, it must be made clear to EPA that the State has analyzed the 8-hour ozone data first and has drawn the boundary to fit the data.

We would also like to draw your attention to a letter that we sent to Governor Hull on January 19, 2001. In that letter, we stated that "based on demographic and growth information we have for the Phoenix area, retaining the current 1-hour ozone nonattainment boundary as the 8-hour boundary would not protect public health and is therefore not an option for Arizona. If the State provides to EPA information addressing the boundary criteria, it may be possible to justify an 8-hour boundary smaller than the MSA. We also respectfully request boundary criteria information on Yavapai and Gila counties because we are concerned about the violating monitors at or near the borders of those counties. The national direction has been to include adjacent areas with large emission sources or other characteristics such as growth." We expect you will consider including any unique areas in the nonattainment area in order to avoid backsliding problems unless there is a compelling demonstration of why they should not be included. EPA's policy on anti-backsliding requires that any existing measures that were used to bring the area into attainment for the 1-hour ozone standard must be retained.

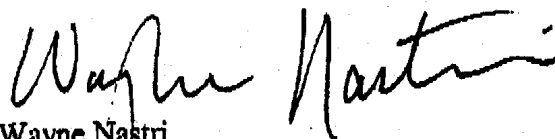
Once EPA officially designates an area as not meeting an air quality standard, your State will be required to develop and submit to EPA a plan for cleaning up the air in those designated nonattainment areas. For Indian Country, either the Tribe or EPA will develop implementation plans. State Implementation Plans will be due no later than three years after the date that an area is designated as nonattainment. The level of emission control programs and the dates for achieving clean air in your nonattainment areas will vary depending upon the severity of the problem.

We hope that you will encourage the communities in your State to take early actions to improve their air quality. My staff and I stand ready to help your State and communities identify pollution control measures that could be implemented to help clean the air. We will also work with other affected States and Tribes to take necessary steps to reduce air pollution.

In addition, our analysis shows that the Clear Skies legislation introduced in Congress in 2002 would reduce the long-range transport of ozone and fine particles and result in wide-spread improvement in air quality.

Thank you for your continued leadership on these matters. I look forward to working with you as we clean up the nation's air pollution.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Wayne Nasti". The signature is fluid and cursive, with the first name "Wayne" and last name "Nasti" clearly distinguishable.

Wayne Nasti
Regional Administrator

cc: Nancy Wrona, ADEQ
Dennis Smith, MAG
Al Brown, Maricopa County
Ursula Kramer, Pima County
Charles Matthewson, PAG
Don Gabrielson, Pinal County
John Gross, YMPO